

REMARKS

Applicant has amended claims 1, 2 and 5. Applicant respectfully submits that the amendments to the claims are supported by the application as originally filed and do not contain any new matter. Accordingly, Applicant would like to make some comments concerning the Final Office Action issued by the Examiner on July 12, 2002.

In particular, Applicant respectfully submits that the "substance that remains undigested up to the colon" is defined and discussed at least at page 6, lines 2-6, page 6, line 28 through page 7, line 4 and page 13, lines 18-24. Accordingly, Applicant respectfully submits that the introduction of such a limitation in the claims is not new matter. Also, Applicant respectfully submits that in view of the fact that the limitations in the claims are to be read in light of the specification, this same phrase is not indefinite.

Finally, the Examiner points out some other issues the Examiner believes are indefinite at page 4 of the Examiner's Final Office Action. Applicant directs the Examiner's attention to page 4 of Applicant's amendment filed May 7, 2002 where Applicant believes Applicant answered the Examiner's concerns. By way of example, at page 4, lines 25 and 26 of Applicant's application, it states that the starting material is grains as proposed by Japanese Patent Application Laid-Open (Kokai) No. H7-23725. As pointed in Applicant's arguments in Applicant's amendment submitted May 7, 2002, JP '725 corresponds to USP 5,853,779 and clearly describes the starting material and it is apparent from the description of the JP '725 that the starting material is not ground, pulverized or powdered. All these have previously been presented to the Examiner, along with other explanations and responses.

In view of the fact that none of the art cited by the Examiner contains a substance that remains undigested up to the colon or in other words, a substance which remains undigested and unabsorbed in small intestines of a living being, Applicant respectfully submits that the art relied upon by the Examiner does not anticipate or make obvious Applicant's invention.

It is respectfully requested that this Amendment be entered as part of this RCE, favorably considered and the case passed to issue.

Applicant further respectfully and retroactively requests a four-month extension of time to respond to the Office Action. Please charge Deposit Account No. 11-1445 in

the amount of \$1450.

Please charge any additional costs incurred by or in order to implement this Amendment or required by any requests for extensions of time to KODA & ANDROLIA DEPOSIT ACCOUNT NO. 11-1445.

Respectfully submitted,

KODA & ANDROLIA

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William L. Androlia

Name



Signature

7/9/2003

Date